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Analysis of House Bill 4536 (As Passed House)

Topic: Proprietary Schools
Sponsor: Representative McDowell
Co-Sponsors: Representatives Lahti, Lindberg, Nerat, Sheltroun, and Mayes
Committee: House Regulatory Reform
Senate Economic Development & Regulatory Reform

Date Introduced: March 10, 2009

Date Enrolled:

Date of Analysis: July 21, 2009

Position: The Department of Energy, Labor & Economic Growth supports the bill.

Problem/Background: Informal advice from the Department of Attorney General interpreted the fees charged for services provided by students as a violation of the proprietary school law's prohibition against a school being part of a commercial enterprise. As a result, the department initiated regulatory action against several schools alleging that this practice violated the law.

Description of Bill: The bill prohibits a person from operating a proprietary school without a temporary permit or license from the department. A license issued to a school accredited by a national or regional accrediting agency recognized by the United States Secretary of Education is valid for three years. Licenses issued to other schools are valid for one year. Whether issued a license for one year or three years, a school is required to pay the annual license fee established by the department.

A proprietary school may sell goods produced or services provided by students if all of the following are met:

- The program includes classroom study and practical training.
- Any practical training included in the program is supervised by a faculty member.
- Producing goods or providing services is an integral part of the student's practical training. This aspect of the educational program must be clearly disclosed in writing to the student before enrollment and included in a signed enrollment agreement.

DELEG is an equal opportunity employer/program.
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

- Customers purchasing goods produced or services provided by students must be provided written notification that the goods are produced or the services provided by students.
- The customer is charged the reasonable costs of providing the goods and services.
- Money from the sale of the goods or services is used solely to support the school.
- The school does not charge a student a monetary penalty or increase program hours if practical training is missed or require a student to recruit customers unless that is clearly disclosed before enrollment.

A licensed proprietary school is required to adopt and publish a written policy allowing students to file a complaint with the department for any violation of the act or rules. In lieu of license revocation, the department would be permitted to assess an administrative fine of not more than \$1,000 for a violation of the act or rules. No fine may in excess of \$5,000 may be assessed for multiple violations resulting from the same transaction. The penalties for operating without a license are increased to a \$10,000 fine or imprisonment for 1 year, or both.

Summary of Arguments

Pro: Practical experience is an important aspect of learning a profession and the fees charged for these products or services offset the costs of operating the school that would otherwise be passed along to students in increased tuition.

Schools under the jurisdiction of various licensing boards (e.g. barbers, cosmetologists) are permitted to charge fees for services provided by students. It is unfair to prohibit schools providing training for professions not requiring a license from charging fees under similar circumstances.

Con: A few schools have used clinical experience as a means of increasing revenue and in the process have taken advantage of the free labor provided by students. It is not unusual for students to be fined or otherwise penalized for missing clinical time. It is also not unusual for students to be required to recruit customers for the clinic.

Fiscal/Economic Impact

(a) Department

Budgetary: The bill will have no budgetary impact on the department's regulatory program for proprietary schools.

Revenue: The bill may result in a small amount of additional revenue by providing for an administrative fine in lieu of license revocation.

Comments:

(b) State

Budgetary: The bill will have no budgetary impact on the state.

Revenue: The increased fine for license revocation or operating without a license will potentially increase revenue from fines. Under Public Act 59 of 1964 these fines are collected by counties and distributed to libraries.

Comments:

(c) Local Government

Comments:

Other State Departments: No other state departments are affected.

Any Other Pertinent Information: The owner of the Great Lakes Boat Building School in Cedarville testified in favor of the bill. He stated that all other boat schools sell their boats. They currently donate their boats to non-profit organizations. Irene's Myomassology Institute testified in favor of the bill. Dan Gustafson testified in favor of the bill on behalf of the Michigan Career Schools Association.

The bill passed the House unanimously.

Administrative Rules Impact: No new or revised administrative rules will be required.